



# California Fair Political Practices Commission

March 13, 1989

Arthur Forcier  
11783 Laurelcrest Drive  
Studio City, CA 91604

Re: Your Request For Informal Assistance  
Our File No. I-89-058

Dear Mr. Forcier:

You have requested advice concerning the campaign provisions of the Political Reform Act.<sup>1/</sup> Because your request does not indicate that you are seeking advice on behalf of a person who has duties under the Act, we consider your request to be for informal assistance.<sup>2/</sup> Therefore, this letter will not address the hypothetical questions you presented, but will provide general guidance. We cannot provide specific answers to hypothetical questions because the answers to those questions often will differ depending on the facts presented.

You have asked whether it is permissible for individuals, organizations or committees to conduct independent campaigns to support or oppose a candidate, and whether particular involvement of a candidate in the activities of a committee would affect the committee's independent status. In addition, you asked whether members of an "independent committee" can advise a candidate concerning the candidate's campaign expenditures.

There is nothing in the Act which would prohibit an individual, organization or committee from making independent expenditures to support or oppose a candidate. There is no

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1/ Government Code Section 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

2/ Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Government Code Section 83114; 2 Cal. Code of Regs. Sections 18329(c)(3).)

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definition of "independent committee" in the Act. The Act does provide a definition of "controlled committee." For purposes of this letter, we use the term "independent committee" to refer to a committee which is not a "controlled committee."

Section 82016 provides:

"Controlled committee" means a committee which is controlled directly or indirectly by a candidate or state measure proponent or which acts jointly with a candidate, controlled committee or state measure proponent in connection with the making of expenditures. A candidate or state measure proponent controls a committee if he, his agent or any other committee he controls has significant influence on the actions or decisions of the committee.

The Commission has interpreted the definition of "controlled committee" very broadly to include any significant participation in the actions of a committee by a candidate, his or her agent, or representatives of any other committee he or she controls. Attached for your guidance are the following advice letters issued by the Commission on the subject of what constitutes "control" of a committee:

Pastrick Advice Letter, No. A-87-063  
Ferguson Advice Letter, No. A--86-044  
Madden Advice Letter, No. A-85-197  
Memo To Advice File, No. T-85-139  
Memo To Advice File, No. M-84-257  
Gross Advice Letter, No. A-84-143

With regard to the making of "independent expenditures" in support of a candidate by an individual, organization or committee, Section 82031 provides:

"Independent expenditure" means an expenditure for a communication made by a person in connection with a communication which expressly advocates the election or defeat of a clearly identified candidate or the qualification, passage or defeat of a clearly identified measure, or taken as a whole and in context, unambiguously urges a particular result in an election but which is not made to or at the behest of the affected candidate or committee.

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A payment which is "made at the behest" of a candidate or committee is not an "independent expenditure." (Section 82031.) It is a "contribution" to the candidate or committee. (Section 82011.) A payment is "made at the behest" of a candidate or committee if it is made:

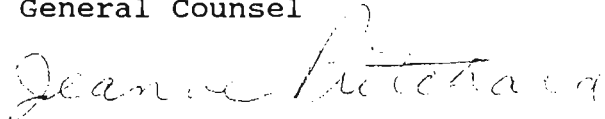
... under the control or at the direction of, in cooperation, consultation, coordination, or concert with, or at the request or suggestion of a candidate, controlled committee,...

(Regulation 18215, copy enclosed.)

If you have any questions about this letter, please call me at (916) 322-5662.

Sincerely,

Diane M. Griffiths  
General Counsel

A handwritten signature in cursive script, appearing to read "Jeanne Pritchard", is written over the typed name.

Jeanne Pritchard  
Division Chief  
Technical Assistance and  
Analysis Division

encls.

FPPC  
JAN 30 11 46 AM '89

Arthur Forcier  
11783 Laurelcrest Dr.  
Studio City, CA 91604  
January 24, 1989

Fair Political Practices Committee  
P.O. Box 807  
Sacramento, CA 95804

To Whom It May Concern:

Do California's present election laws permit individuals or organizations or PACS to conduct independent campaigns in support of or in opposition to a candidate?

If a candidate is a member of the executive board that controls a PAC, can the PAC legally say it's running a campaign that is independent of the candidate, or is the fact that the candidate is an executive board member automatically create a situation of non-independence?

Can members of an independent PAC running an independent campaign also advise the candidate as to the expenditures that should be made by the candidate's own controlled PAC?

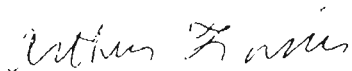
If it is legally possible to run an independent campaign in support of a candidate, despite the candidate being an executive board member, would any of the following circumstances affect the interpretation concerning the independence factor?:

- 1) 10% of the executive board members are significant members of the candidate's campaign.
- 2) The candidate doesn't attend executive board meetings.
- 3) The candidate significant campaign supporters don't attend executive board meetings.
- 4) The executive board appropriates money for an independent campaign but has the organization staff determine how the money is to be spent without guidance from the candidate or the executive board and without the candidate or the executive board knowing how the money has been spent.

The independent PAC and the candidate are both involved in a Spring 1989 election. The filing date has already past. Neither the candidate nor the independent PAC wish to violate any campaign rules.

It would be very much appreciated if you would also send any pamphlets, papers, or manuals concerning existing election laws and interpretations as well as the answer to the specific questions. Thank you very much.

Sincerely,



Arthur Forcier

FPPC  
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Sincerely,



Arthur Forcier



# California Fair Political Practices Commission

January 31, 1989

Arthur Forcier  
11783 Laurelcrest Drive  
Studio City, CA 91604

Re: Letter No. 89-058

Dear Mr. Forcier:

Your letter requesting advice under the Political Reform Act was received on January 30, 1989 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact me directly at (916) 322-5662.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or more information is needed, you should expect a response within 21 working days if your request seeks formal written advice. If more information is needed, the person assigned to prepare a response to your request will contact you shortly to advise you as to the information needed. If your request is for informal assistance, we will answer it as quickly as we can. (See Commission Regulation 18329 (2 Cal. Code of Regs. Sec. 18329).)

You also should be aware that your letter and our response are public records which may be disclosed to the public upon receipt of a proper request for disclosure.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Jeanne Pritchard", is written over the typed name.

Jeanne Pritchard  
Chief Technical Assistance  
and Analysis Division

JP:plh